

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	16-CR-506-1
	)	
vs.	)	
	)	
JEFFREY A. GLAZER,	)	Philadelphia, PA
	)	January 9, 2017
Defendant.	)	12:10 p.m.

TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE R. BARCLAY SURRICK  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	MARK C. GRUNDTVIG, ESQUIRE SONIA MITTAL, ESQUIRE US Department of Justice, Antitrust Division 450 Fifth Street, NW Suite 11300 Washington, DC 20530
For the Defendant:	THOMAS MUELLER, ESQUIRE WILMER CUTLER PICKERING HALE & DORR, LLP 1875 Pennsylvania Avenue, NW Washington, DC 20006
Audio Operator:	CHRIS KUREK

Transcribed by:	DIANA DOMAN TRANSCRIBING, LLC P.O. Box 129 Gibbsboro, New Jersey 08026 Office: (856) 435-7172 Fax: (856) 435-7124 Email: dianadoman@comcast.net
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1 (The following was heard in open Court 12:10 p.m.)

2 THE COURT: All rise. The United States District  
3 Court for the Eastern District of Pennsylvania is now in  
4 session, the Honorable R. Barclay Surrick presiding.

5 THE COURT: Good morning. Have a seat.

6 MR. GRUNDTVIG: Good afternoon, Your Honor.

7 MR. MUELLER: Good afternoon, Your Honor.

8 THE COURT: Good afternoon. Okay, we have the case  
9 of the United States vs. Jeffrey A. Glazer, it's Number 16-  
10 506. Counsel, please identify yourselves for the record.

11 MR. GRUNDTVIG: Your Honor, my name is Mark Grundvig  
12 for the United States, and with me at counsel table are Sonia  
13 Mittal and Joe Folio.

14 MR. MUELLER: Good afternoon, Your Honor, Thomas  
15 Mueller for the defendant, Jeffrey Glazer.

16 THE COURT: Okay. Counsel, we're here this  
17 afternoon for the guilty plea, as I understand it, to an  
18 information, is that correct?

19 MR. MUELLER: That's correct, Your Honor.

20 THE COURT: All right. Mr. Grundvig, do you want to  
21 bring your client forward?

22 MR. MUELLER: Mr. Mueller. Mr. Grundvig is for the  
23 prosecution.

24 THE COURT: All right. Will you --

25 COURTROOM DEPUTY: Raise your right hand, please.

1 THE COURT: Will you swear in the defendant, please?

2 JEFFREY A. GLAZER, DEFENDANT, SWORN

3 COURTROOM DEPUTY: Can you state your full name for  
4 the Court?

5 THE DEFENDANT: Jeffrey A. Glazer.

6 COURTROOM DEPUTY: Thank you.

7 THE COURT: Mr. Glazer, over the next 30 minutes or  
8 so I'm going to ask you a number of questions. These  
9 questions are for the purpose of my determining that your plea  
10 is being voluntarily and intelligently entered. Do you  
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that you're under  
14 oath? You were just sworn, you're under oath?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: When you're under oath you have to  
17 answer my questions truthfully. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: If you fail to answer questions  
20 truthfully when you're under oath, you can be prosecuted for  
21 perjury. Do you understand that?

22 THE DEFENDANT: Yes.

23 EXAMINATION

24 BY THE COURT:

25 Q Mr. Glazer, how old are you?

1 A 45.

2 Q And how far did you go in school?

3 A Graduate school.

4 Q You have a graduate degree?

5 A Yes, I have a law degree.

6 Q A law degree?

7 A Yes.

8 Q You obviously read and write.

9 A Yes.

10 Q Are you under the care of a psychologist or psychiatrist  
11 at the present time?

12 A No.

13 Q Are you on any medication?

14 A No.

15 Q Is there any reason at all, Mr. Glazer, why you would  
16 have difficulty understanding these proceedings this  
17 afternoon?

18 A No.

19 Q You're represented by counsel here?

20 A I am.

21 Q You've had a chance to discuss this matter with counsel  
22 in detail?

23 A Yes.

24 Q Are you satisfied with the representation you're getting  
25 from your attorney?

1 A Yes.

2 Q Are you satisfied that if you choose to go to trial in  
3 this case, he could properly represent you?

4 A Yes.

5 Q Now, I'm told, Mr. Glazer, that you want to plead guilty  
6 to two counts of an information. You understand that you have  
7 a right to have this matter presented to a Grand Jury and to  
8 have an indictment returned in this matter? Do you understand  
9 that?

10 A Yes.

11 Q Do you understand that if you chose to have the matter  
12 presented to the Grand Jury, that Grand Jury would be made up  
13 of anywhere from 16 to 23 citizens from the Eastern District  
14 of Pennsylvania and at least 16 of those Grand Jurors would  
15 have to be satisfied that there is probable cause to believe  
16 that you committed these crimes in order to return an  
17 indictment? Do you understand that?

18 A Yes.

19 Q You're telling me that you don't want this matter  
20 presented to the Grand Jury?

21 A That's correct.

22 Q You want to waive presentment to the Grand Jury and plead  
23 guilty here today to this -- to the information?

24 A That's correct.

25 THE COURT: Counsel, has there been a Waiver of

1 Grand Jury form prepared?

2 MR. GRUNDTVIG: Yes, Your Honor. We've handed that  
3 up already.

4 THE COURT: All right.

5 Do you have that form?

6 COURTROOM DEPUTY: Yeah, it was handed up with the  
7 packet of waivers.

8 BY THE COURT:

9 Q Okay, Mr. Glazer, I am holding in my hand that Waiver of  
10 Grand Jury presentment form and it would appear that your  
11 signature is on the line where your name is typed in. Is that  
12 your signature?

13 A Yes.

14 Q Did you discuss this with your attorney before you signed  
15 it?

16 A Yes.

17 Q Did you understand that you were waving presentment to  
18 the Grand Jury when you signed this?

19 A Yes.

20 Q Did you sign it of your own free will?

21 A Yes, I did.

22 Q Did anybody put any pressure on you to make you sign  
23 this?

24 A No.

25 Q All right.

1           THE COURT: We'll make the Grand Jury Waiver form a  
2 part of the record.

3 BY THE COURT:

4 Q Mr. Glazer, the information that you are pleading guilty  
5 to today has two counts. Each of those counts charges you  
6 with a violation of Section 1 of the Sherman Act. Section 1  
7 of the Sherman Act provides inter alia that every contract or  
8 combination or conspiracy to restrain trade is declared  
9 illegal.

10           Mr. Glazer, if the Government had to prove that you  
11 violated Section 1 of the Sherman Act, they would have to  
12 prove the following. They would have to prove that you  
13 knowingly and intentionally entered into an agreement with  
14 other individuals or entities to do an unlawful act.

15           And in this case, that unlawful act is to  
16 unreasonably restrain trade or competition by allocating  
17 customers, rigging bids and fixing prices, and that you  
18 entered into this conspiracy and this conspiracy substantially  
19 affected interstate or foreign commerce. Do you understand  
20 that that's what the Government would have to prove here?

21 A Yes.

22 Q Do you understand that there are two counts; Count 1  
23 deals with a conspiracy to restrain trade that existed from  
24 about April of 2013 to December of 2015, and that involved the  
25 generic drug Doxycycline Hyclate -- I believe that's the



1 pronunciation, and Count 2 deals with a conspiracy to restrain  
2 trade that existed from about April of 2014 to December of  
3 2015 involving the drug Glyburide? Do you understand that?

4 A Yes.

5 Q Do you have any questions about the crimes that the  
6 Government is charging you with and that the Government would  
7 have to prove in this case?

8 A No.

9 Q Do you understand that a violation of Section 1 of the  
10 Sherman Act is punishable by up to ten years in jail? Do you  
11 understand that?

12 A Yes.

13 Q Do you understand that there is a supervised release that  
14 follows jail of up to three years? Do you understand that?

15 A Yes.

16 Q Do you understand that if you're on supervised release  
17 and you violate the terms of supervised release, you can be  
18 brought back into Court and re-incarcerated for up to two  
19 years? Do you understand that?

20 A Yes.

21 Q Do you understand that there is a fine to be imposed for  
22 violation of Section 1 and that fine is equal to the greatest  
23 of \$1 million or twice the gross pecuniary gain of (sic) the  
24 conspirators derived from this crime; or twice the gross  
25 pecuniary loss caused to the victims of the crime by the

1 conspirators? Do you understand that?

2 A Yes.

3 Q Do you have any questions at all about the punishment  
4 that can be imposed for this crime?

5 A No.

6 Q Do you understand, Mr. Glazer, that you do not have to  
7 plead guilty to these charges? Do you understand that?

8 A Yes.

9 Q You have an absolute constitutional right to go to trial  
10 in this matter. Do you understand that?

11 A Yes.

12 Q And if you chose to go to trial in this case, we would  
13 schedule the case for a date certain, we would bring a panel  
14 of perspective jurors into the courtroom, those jurors would  
15 all be citizens from the Eastern District of Pennsylvania and  
16 you could participate in the selection of the jury that would  
17 hear the case. Do you understand that?

18 A Yes.

19 Q Do you understand that during the jury selection process,  
20 you could challenge jurors peremptorily, you get a certain  
21 number of peremptory challenges that you don't have to  
22 explain, you can just exercise them for your own reasons? Do  
23 you understand that?

24 A Yes.

25 Q You would also get challenges of perspective jurors for

1 cause. Any juror who could not be fair and impartial in this  
2 matter could be challenged and stricken. Do you understand  
3 that?

4 A Yes.

5 Q And do you understand that after you made your selection  
6 of the jurors and after the Government did the same, 12 jurors  
7 would be empaneled to hear the case? Do you understand that?

8 A Yes.

9 Q Do you understand that I would instruct those 12 jurors  
10 that you are presumed innocent, that the burden is upon the  
11 Government to prove you guilty by evidence beyond a reasonable  
12 doubt and the mere fact that you were arrested and accused of  
13 a crime is not evidence against you? Do you understand that?

14 A Yes.

15 Q Do you understand that if after hearing all of the  
16 evidence and testimony any one of those 12 jurors had a  
17 reasonable doubt as to your guilt, you could not be found  
18 guilty because the verdict of a criminal jury must be  
19 unanimous, all must agree? Do you understand that?

20 A Yes.

21 Q Do you understand that if you chose to go to trial, you  
22 would have a right to file pretrial motions, motions to  
23 suppress evidence and other pretrial motions? Do you  
24 understand that?

25 A Yes.

1 Q Did you discuss that with your attorney?

2 A Yes.

3 Q Do you understand that if evidence was gained -- gathered  
4 against you in violation of your constitutional rights, that  
5 evidence could not be used at trial, it would be suppressed?  
6 Do you understand that?

7 A Yes.

8 Q Do you understand that if you chose to go to trial in  
9 this matter, you would have the right to confront and to  
10 cross-examine all the witnesses against you? Do you  
11 understand that?

12 A Yes.

13 Q You have a right to present your own witnesses and if you  
14 subpoenaed witnesses, we would require that they appear. Do  
15 you understand that?

16 A Yes.

17 Q Do you understand that you do not have to testify at  
18 trial, you have a constitutional right to remain silent and if  
19 you choose to exercise that right, it cannot be held against  
20 you in any way? Do you understand that?

21 A Yes.

22 Q Do you understand that if you went to trial and you were  
23 convicted, you would have a right to appeal and we would give  
24 you an attorney free of charge to file that appeal if you  
25 couldn't afford one? Do you understand that?

1 A Yes.

2 Q In that appeal, you could raise objections to anything  
3 that happened during the course of the trial that you felt was  
4 improper or inappropriate. Do you understand that?

5 A Yes.

6 Q And you could also raise objection to my rulings on those  
7 pretrial motions that I mentioned a few minutes ago. Do you  
8 understand that?

9 A Yes.

10 Q Mr. Glazer, you're telling me you do not want to go  
11 through that process, you do not want to go to trial in this  
12 matter? Is that what you're telling me?

13 A Yes.

14 Q You want to admit your guilt here this afternoon and take  
15 the consequences, is that what you're telling me?

16 A Yes.

17 Q Do you understand that if I accept this plea, I am simply  
18 going to order a presentence investigation and schedule the  
19 matter down for sentencing? Do you understand that?

20 A Yes.

21 Q You and your attorney will get a copy of that presentence  
22 report and you can make objections to it at the time of  
23 sentencing. Do you understand that?

24 A Yes.

25 Q Mr. Glazer, you entered into a plea agreement with the

1 Government, is that correct?

2 A Yes.

3 Q I'm holding that agreement in my hand and it is a 17 page  
4 document and on the 17th page there's a place for your  
5 signature. Is that your signature?

6 A Yes.

7 Q Mr. Glazer, did you read this document before you signed  
8 it?

9 A Yes.

10 Q Did you go over it with your attorney before you signed  
11 it?

12 A Yes.

13 Q Did you understand each and every paragraph of it before  
14 you signed it?

15 A Yes.

16 Q Did you sign it of your own free will?

17 A Yes.

18 Q Did anybody pressure you to make you sign it?

19 A No.

20 Q Did anybody promise you anything in return for signing  
21 it?

22 A No.

23 Q Mr. Glazer, there are some provisions in that plea  
24 agreement that I want to talk to you about. First of all, the  
25 plea agreement provides for a waiver of appeal rights and a

1 waiver of collaterally attacking your conviction. Do you  
2 understand that?

3 A Yes.

4 Q You discussed this with your attorney?

5 A Yes.

6 Q Do you understand that you are severely limiting your  
7 appeal rights by entering this plea agreement?

8 A Yes.

9 Q Under this plea agreement, the only thing that you could  
10 raise on appeal would be if I sentenced you beyond the  
11 statutory maximum, you could raise that objection. Do you  
12 understand that?

13 A Yes.

14 Q If I upwardly departed from the Sentencing Guidelines  
15 unreasonably or improperly, you could object to that. Do you  
16 understand that?

17 A Yes.

18 Q You can also object that you did not receive effective  
19 assistance of counsel in these proceedings. Do you understand  
20 that?

21 A Yes.

22 Q You're telling me that you're satisfied with the  
23 representation you've gotten here?

24 A Yes.

25 Q You're satisfied that your attorney has effectively

1 represented you?

2 A Yes.

3 Q Any question in your mind about that?

4 A No.

5 Q There's another provision in this plea agreement  
6 regarding a downward departure under Section 5K1.1 of the  
7 guidelines. That provision provides that in return for your  
8 cooperation in this matter, the Government may come in at the  
9 time of sentencing and request that I depart downward from the  
10 Sentencing Guidelines. Do you understand that?

11 A Yes.

12 Q Do you understand that it is solely within the discretion  
13 of the Government whether they will come in here and make such  
14 a request? Do you understand that?

15 A Yes.

16 Q Do you understand that it is solely within my discretion  
17 whether I will grant that request and the extent to which I  
18 will grant it? Do you understand that?

19 A Yes.

20 Q The plea agreement also has recommendation in it with  
21 regard to those Sentencing Guidelines. Do you understand that  
22 those recommendations are simply that -- recommendations,  
23 they're not binding on the Court? Do you understand that?

24 A Yes.

25 Q It's up to the Court to determine at the time of



1 sentencing what the Sentencing Guidelines are and what is a  
2 reasonable sentence under the circumstances. Do you  
3 understand that?

4 A Yes.

5 Q With regard to those guidelines, have you had discussion  
6 with your attorney about those guidelines?

7 A Yes.

8 Q Do you understand that those guidelines are advisory,  
9 they're not mandatory, but I do have to consider them when I'm  
10 imposing sentence? Do you understand that?

11 A Yes.

12 Q Mr. Glazer, again I ask you, are you entering this plea  
13 of your own free will?

14 A Yes.

15 Q Has anybody put any pressure on you at all to make you do  
16 this?

17 A No.

18 Q Has anybody promised you anything at all?

19 A No.

20 Q Do you know what you're doing?

21 A Yes.

22 Q Do you have any questions about what you're doing?

23 A No.

24 Q Do you understand that if you have questions, now is the  
25 time to ask them, not later?

1 A Yes, I understand.

2 THE COURT: Counsel, you have been representing Mr.  
3 Glazer in this matter. You've had an opportunity to discuss  
4 this matter with him in detail?

5 MR. MUELLER: Yes, I have, Your Honor.

6 THE COURT: Are you satisfied that he's entering a  
7 voluntary, intelligent plea here?

8 MR. MUELLER: I am.

9 THE COURT: Any question in your mind about that?

10 MR. MUELLER: None whatsoever.

11 THE COURT: Counsel, do you want to give me the  
12 factual basis for these charges?

13 MR. GRUNDTVIG: Yes, Your Honor. Had this case gone  
14 to trial the United States would have presented evidence  
15 sufficient to prove the following facts. During the periods  
16 relevant to Counts 1 and 2, the defendant was the Chief  
17 Executive Officer and Chairman of a pharmaceutical company,  
18 organized and existing under the laws of Delaware with its  
19 principal place of business in Eatontown, New Jersey.

20 During the relevant periods the defendant's company  
21 was engaged in the acquisition, licensing, production,  
22 marketing, sale and distribution of generic pharmaceuticals  
23 products including Doxycycline Hyclate and Glyburide and was  
24 engaged in the sale of those drugs in the United States.

25 Doxycycline Hyclate is a generic antibiotic used to

1 treat a variety of infections and Glyburide is a generic drug  
2 used in the treatment of diabetes. During the relevant  
3 periods, the defendant's company produced and distributed  
4 Doxycycline Hyclate in a delayed release tablet form in three  
5 dosage strengths. It produced and distributed Glyburide in  
6 tablet form in four dosage strengths.

7 During the relevant periods the parties agree that  
8 the affected volume of commerce based on the sales of  
9 Doxycycline Hyclate and Glyburide in the United States totaled  
10 approximately 1.6 million after excluding certain sales  
11 pursuant to United States Sentencing Guidelines Section 1B1.8.

12 The relevant period for Count 1 is that period from  
13 in or about April, 2013 and continuing at least until at least  
14 December, 2015.

15 During the relevant period, the defendant  
16 participated in a conspiracy with other persons and entities  
17 engaged in the production and sale of generic pharmaceutical  
18 products including Doxycycline Hyclate, the primary purpose of  
19 which was to allocate customers, rig bids and fix and maintain  
20 prices of Doxycycline Hyclate sold in the United States in  
21 furtherance of the conspiracy.

22 Defendant and his co-conspirators, including  
23 individuals that the defendant supervised at his company and  
24 those he reported to at his company's parent, engaged in  
25 discussions and attended meetings with the co-conspirators

1 involved in the production and sale of Doxycycline Hyclate.  
2 During such discussions and meetings, agreements were reached  
3 to allocate customers, rig bids and fix and maintain the  
4 prices of Doxycycline Hyclate sold in the United States.

5 The relevant period for Count 2 is that period from  
6 in or about April, 2014 and continuing until at least  
7 December, 2015. During the relevant period for Count 2, the  
8 defendant participated in a conspiracy with other persons  
9 engaged in the -- and entities engaged in the production and  
10 sale of generic pharmaceutical products including Glyburide,  
11 the primary purpose of which was to allocate customers and fix  
12 and maintain prices of Glyburide sold in the United States.

13 In furtherance of the conspiracy the defendant and  
14 his co-conspirators at his company, including individuals the  
15 defendant supervised, engaged in discussions and attended  
16 meetings with co-conspirators involved in the production and  
17 sale of Glyburide.

18 During such discussions and meetings agreements were  
19 reached to allocate customers and fix and maintain prices of  
20 Glyburide sold in the United States. The defendant was an  
21 organizer or leader in the conspiracy which involved at least  
22 five participants.

23 During the relevant periods for Counts 1 and 2,  
24 Doxycycline Hyclate and Glyburide sold by one or more of the  
25 conspirator firms and the equipment and supplies necessary to

1 the production and sale of those drugs as well as payments for  
2 those drugs traveled in interstate and foreign commerce.

3 The business activities of the defendant and his  
4 company and co-conspirators in connection with the production  
5 and sale of Doxycycline Hyclate and Glyburide that were the  
6 subject of these conspiracies were within the flow of and  
7 substantially affected interstate and foreign trading  
8 commerce.

9 Acts in furtherance of the conspiracies described in  
10 Count 1 and Count 2 were carried out within the Eastern  
11 District of Pennsylvania.

12 Doxycycline Hyclate, the subject of -- described in  
13 Count 1 of the charges and Glyburide, the subject of the  
14 conspiracy in Count 2, were sold by one or more conspirators  
15 to customers in this district.

16 In addition to conspiratorial meetings and  
17 discussions described took place in the United States and  
18 elsewhere, and at least one of these discussions relevant to  
19 Count 2 involved a co-conspirator that has its principal place  
20 of business in this district.

21 BY THE COURT:

22 Q All right, Mr. Glazer, you heard what the Assistant  
23 United States Attorney just said with regard to the facts of  
24 this case?

25 A Yes.

1 Q And those facts are included in the plea memorandum that  
2 was prepared by the Government. Do you remember reading that?

3 A Yes.

4 Q Do you understand you are admitting the facts that were  
5 just recited and that are included in that plea memorandum?

6 A Yes.

7 Q Do you admit those facts?

8 A Yes, I do.

9 Q Do you understand that if you did the things you've just  
10 admitted, you're in fact guilty of these charges?

11 A Yes.

12 Q Mr. Glazer, a couple more things. When I bring you back  
13 here to impose sentence on you, if I impose a sentence of  
14 incarceration it will be a flat sentence of incarceration,  
15 there is no parole in the Federal system. Do you understand  
16 that?

17 A Yes.

18 Q Do you understand that a few minutes ago you told me that  
19 you are an attorney, you were licensed as an attorney?

20 A Yes.

21 Q Do you understand that this conviction may very well  
22 adversely impact your ability to practice law?

23 A Yes.

24 THE COURT: Counsel, anything further?

25 MR. MUELLER: No, Your Honor.

1 THE COURT: Anything further from the Government?

2 MR. GRUNDVIG: Nothing, Your Honor.

3 THE COURT: I find that this plea is voluntarily and  
4 intelligently entered. I find that there is a factual basis  
5 for it and I will accept it.

6 Will you please take the plea?

7 COURTROOM DEPUTY: Jeffrey Glazer, you are charged  
8 in Information Number 16-506 consisting of Counts 1 and 2  
9 charging you with conspiracy to fix prices in violation of  
10 Title 15 of the United States Code, Section 1. How do you  
11 plead, guilty or not guilty?

12 THE DEFENDANT: Guilty.

13 COURTROOM DEPUTY: Thank you.

14 THE COURT: All right, and I'm going to order that  
15 presentence investigation report that I mentioned a few  
16 minutes ago. We're going to schedule this matter for  
17 sentencing on April 10, 2017 at 10:00 a.m.

18 Now I understand that the defendant -- that Pretrial  
19 Services has done an investigation and determined that the  
20 defendant should be released pending sentencing on \$300,000  
21 ROR bail. I'm going to accept that recommendation.

22 During the course of his release the defendant shall  
23 report to the Pretrial Services as directed. You shall  
24 surrender a passport, you shall surrender any firearms and you  
25 shall have no contact with any co-defendants or potential

1 witnesses subject to the discussion with counsel. Do you  
2 understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Anything further?

5 MR. MUELLER: No, Your Honor.

6 MR. GRUNDVIG: Nothing, Your Honor.

7 THE COURT: All right, we'll recess.

8 COURTROOM DEPUTY: All rise.

9 (Proceedings concluded, 10:42 a.m.)

10 \* \* \*

11

12

13 C E R T I F I C A T I O N

14

15 I, Diane Gallagher, court approved transcriber,  
16 certify that the foregoing is a correct transcript from the  
17 official electronic sound recording of the proceedings in the  
18 above-entitled matter.

19

20

21 /s/Diane Gallagher

January 10, 2017

22

23 DIANE GALLAGHER

DATE

24 DIANA DOMAN TRANSCRIBING, LLC

25